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UNITED STATES DISTRICT COURT
Southern District of California

SAN DIEGO MINUTEMEN, An
Unincorporated Association,

Plaintiff,

vs.

CALIFORNIA BUSINESS,
TRANSPORTATION AND HOUSING
AGENCY'S DEPARTMENT OF
TRANSPORTATION; DALE BONNER
in his Official Capacity as Agency
Director, Business, Transportation and
Housing Agency; WILL KEMPTON in
his Official Capacity as CalTrans
Director; PEDRO ORSO-DELGADO in
his Official Capacity as Caltrans District
Director and DOES 1 through 50,

Defendants.

Case Number: 08 CV 0210 WQH RBB

**PLAINTIFF'S MOTION TO
WITHDRAW REQUEST FOR
PRELIMINARY INJUNCTION
WITHOUT PREJUDICE**

COMES NOW Plaintiff SAN DIEGO MINUTEMEN and moves this Court for an Order permitting Plaintiff SAN DIEGO MINUTEMEN (hereafter "Plaintiff") to withdraw its motion (filed as application) for preliminary injunction and other relief previously filed [Docs #2,5] and currently scheduled for March 14, 2008 before this Court, without prejudice to Plaintiff's right to file a new motion for preliminary injunction consistent with this Court's prior Order [Doc #6]. Plaintiff further requests that the current briefing schedule and hearing

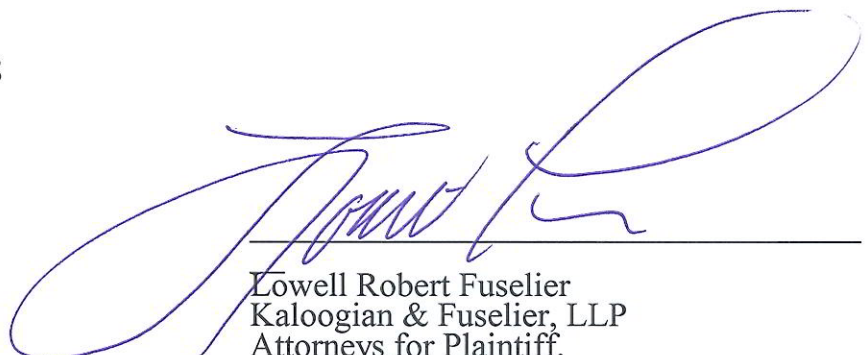
1 date be maintained for Plaintiff's Revised Motion for Preliminary Injunction, which will be
2 filed with the Court no later than February 13, 2008, 30 days prior to the March 14, 2008
3 hearing date previously set by this Court for hearing on Plaintiff's original request for
4 Preliminary Injunction.

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6 This motion is made pursuant to Southern District of California Local Rule 7.1(g)(1)
7 and is made on the grounds that, as a result of this Court's Order dated February 7, 2008
8 [Doc. #6] regarding Plaintiff's *ex parte* motion for Temporary Restraining Order, Plaintiff no
9 longer seeks the relief requested in the preliminary injunction, but instead wishes to file a
10 new request for preliminary injunction which will request relief consistent with the Court's
11 prior Order [Doc. #6].

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13 This motion is based on the instant motion, the accompanying Memorandum of Points
14 and Authorities, the pleadings and papers on file herein, and upon such other matters as may
15 be presented to the Court.

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17 DATED: February 12, 2008

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**UNITED STATES DISTRICT COURT
Southern District of California**

SAN DIEGO MINUTE MEN

Plaintiff,

vs.

DALE BONNER in his Official Capacity
as Agency Director, Business,
Transportation and Housing Agency;
WILL KEMPTON in his Official
Capacity as CalTrans Director; PEDRO
ORSO-DELGADO in his Official
Capacity as Caltrans District Director and
DOES 1 through 50,

Defendants.

Case Number: 08CV0210 WQH [RBB]

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO WITHDRAW REQUEST
FOR PRELIMINARY INJUNCTION
WITHOUT PREJUDICE**

INTRODUCTION

On February 4, 2008 Plaintiff filed a Motion (captioned as an Application) for Order to Show Cause re Temporary Restraining Order and Preliminary Injunction [Docs #2, 5]. On February 7, 2008, this Court issued its Order Denying the Temporary Restraining Order and setting the briefing schedule and hearing date on the Order to Show Cause re Preliminary Injunction [Doc #6].

LEGAL DISCUSSION

I.

GOOD CAUSE EXISTS FOR GRANTING THE RELIEF REQUESTED

On February 7, 2008, this Court issued its Order Denying Motion for Issuance of a Temporary Restraining Order and Setting Briefing Schedule for Motion for Preliminary Injunction. [Doc #6.] In that Order, this Court ruled that Plaintiff had not demonstrated that the relief sought (enjoining assignment of highway section to any other person) remedied the harm suffered by Plaintiff (violation of free speech, procedural due process and equal protection). The Court also set a briefing schedule and hearing date (March 14, 2008) on Plaintiff's request for a preliminary injunction.

Since the preliminary injunction currently sought by Plaintiff seeks the same relief as the TRO, Plaintiff believes it would be imprudent to maintain its current request for preliminary injunction; instead, Plaintiff seeks to file a request for preliminary injunction consistent with this Courts Order. Therefore, Plaintiff seeks to withdraw its current motion for Preliminary Injunction, without prejudice to its right to file a new request seeking relief consistent with this Court's Order.

Good cause exists for granting the instant motion. Granting the instant motion would preserve scarce judicial resources, avoid undue delay in this action and permit Plaintiff to file a revised motion for preliminary injunction which takes into account this Court's Order.

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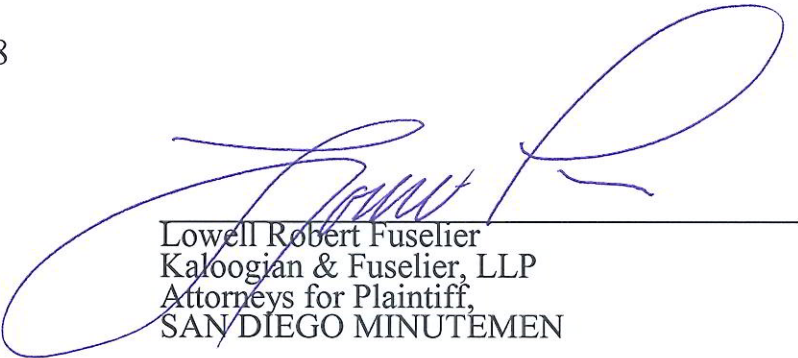
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3 **CONCLUSION**

4 For all of the foregoing reasons, Plaintiff requests this Court permit Plaintiff to
5 withdraw its pending Motion for Preliminary Injunction, without prejudice to Plaintiff's
6 right to file a new motion for preliminary injunction consistent with this Courts prior
7 Order.

8 DATED: February 12, 2008

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12 _____
13 Lowell Robert Fuselier
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15 Attorneys for Plaintiff,
16 SAN DIEGO MINUTEMEN
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